



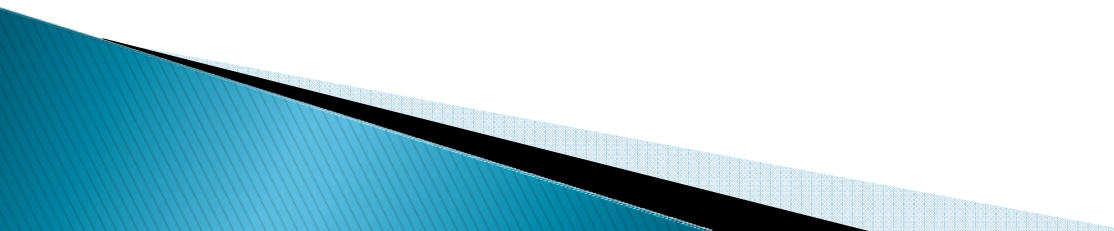
# Identifying and Managing Electronic Records

*Carol Barber*

*Chief Technology Officer, Erie 1 BOCES*

*Executive Director, WNYRIC*

# In this portion:


- ▶ Share some comments, problems and misconceptions regarding “electronic records” in schools
  - ▶ Consider staff and student use of e-mail, and the need to consider ability to retrieve, retention requirements for electronic records, discovery/litigation holds, etc.
  - ▶ Share experiences with electronic records progress –
    - Where we have been?
    - Where we are now?
- 

# Why we are concerned:

- ▶ Electronic information ....?
- ▶ Records management ....?
- ▶ Records retention ....?
- ▶ Liability for misuse?
- ▶ “E-discovery” ....?
- ▶ Litigation hold ....?
- ▶ Spoliation ....?
- ▶ Sanctions ....?
- ▶ \$\$\$\$\$\$\$\$ judgments ....?



# Electronic information: Where could it be?

- ▶ Resides on network/active server: district, BOCES, other
  - ▶ Resides on hard drive: individual desktop, laptop
  - ▶ Document management systems
  - ▶ Portable media: jump drive, CD/DVD, optical disk
  - ▶ Portable devices: cell phones, Smartphones, Blackberrys, PDAs, other handhelds
  - ▶ Backup tapes (“snapshots”) or other remote of third party hosted places
  - ▶ Employee’s home computer
  - ▶ Web site, wiki, blog, voice mail, text messaging....
- 

## *E-mails:*

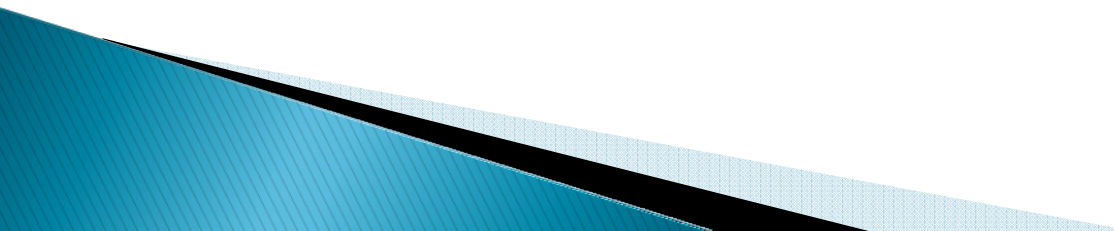
Sheer volume of e-mail produced is problematic – also consider these copies:



sender's copy  
recipient's copy  
cc:'s  
router copy  
disaster back up  
“personal” archives  
organizational archive  
attachments

etc....

## *E-Mail Might Need to be Searched, Retrieved and/or Produced because of:*

- ▶ Individual employee request
  - ▶ Employer:
    - monitoring of use of district resources: use of e-mail and internet, compliance with AUP
    - internal investigation of alleged misconduct by employee or student
  - ▶ Police/FBI investigation
  - ▶ Union request
  - ▶ Freedom of Information Law (“FOIL”) request
  - ▶ FERPA/IDEA request
  - ▶ Etc.
- 

## *E-Mail Might Need to be Searched, Retrieved and/or Produced Because of:*

### ▶ Current litigation:

- Obligation to provide information you wish to use to support claims or defenses in pending lawsuit, arbitration or other proceeding
- Specific discovery request from other party in pending lawsuit, to produce designated information

## *Reasons E-Mail Might Need to be Retained for a Certain Period of Time:*

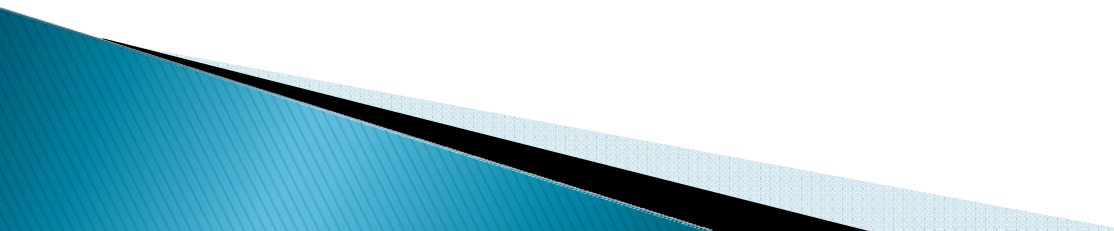
- ▶ “Litigation hold” has been imposed (*e.g.*, “E-Discovery rules”)
  - Duty to preserve arises whenever a party *reasonably anticipates* litigation
  - Sanctions for failure to produce
  - Subject to “spoliation” claim
  
- ▶ “Safe Harbor” – Sanctions *cannot* be imposed for failing to produce ESI lost as a result of the routine, good-faith operation of an electronic information system
  - BUT “good faith” may involve *intervention* to modify or suspend certain features of that routine operation to prevent the loss of ESI, if that ESI is subject to a preservation obligation

## *Reasons E-Mail Might Need to be Retained for a Certain Period of Time:*

- ▶ NYS Records Retention and Disposition Schedule ED-1
  - Minimum length of time records of local government must be kept
  - School districts and BOCES
  - [http://www.archives.nysed.gov/a/records/mr\\_pub\\_ed1.pdf](http://www.archives.nysed.gov/a/records/mr_pub_ed1.pdf)

TO: Mr. Job Candidate  
FROM: Ms. HR Director  
Cc: Keeper of sub list  
Cc: Substitute supervisor

This is to officially notify you that your appointment to the substitute teacher list has been made effective September 1, 2009.....



TO: Carol

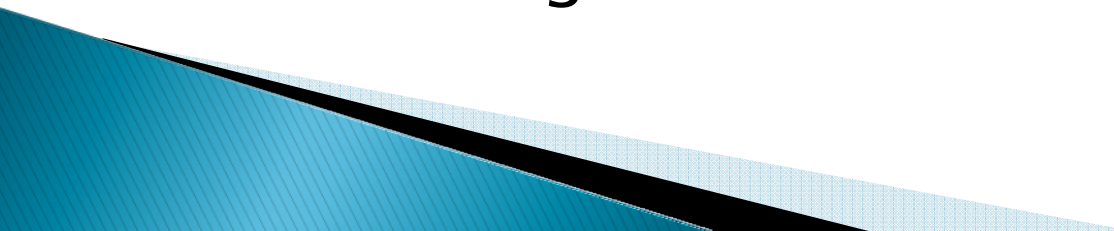
FROM: Colleen

Please order me some more of those blue pens I like without the caps. Thanks!

TO: All Staff

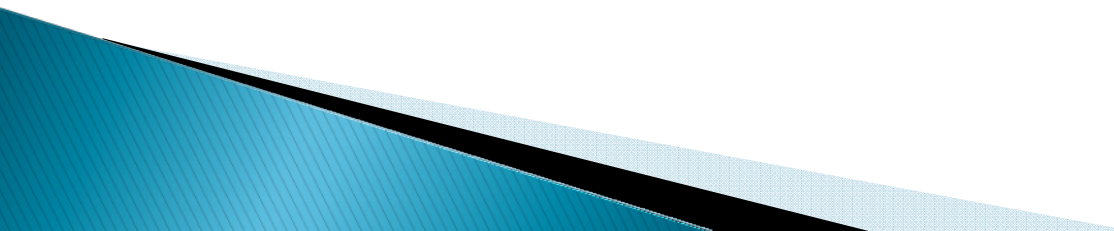
FROM: HR Director

The location of the blood drive scheduled for this Friday at noon has been changed to the High School



TO: Union President  
FROM: HR Director

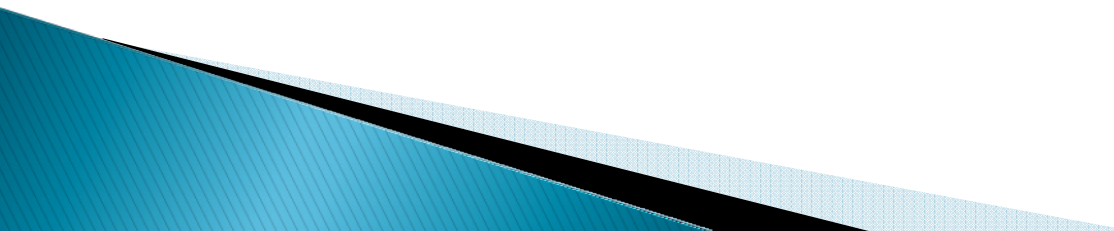
This is to confirm our conversation in which we agreed that the intent of the parties with respect to the new language in Article IX, Section 2 was....



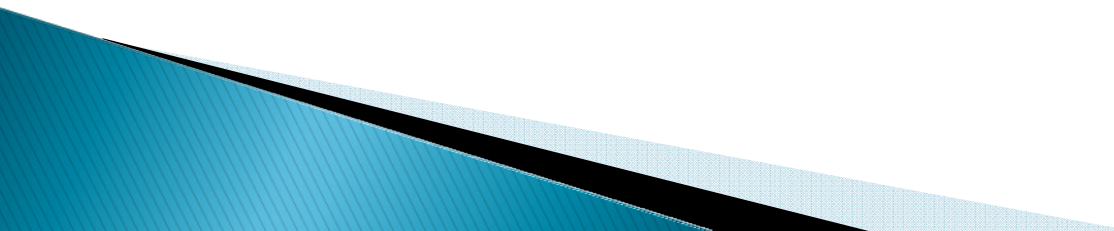
TO: Supervisor

FROM: Employee

Please put me down for a sick day for tomorrow. I will not be in.

- ▶ To: Coordinator of BOCES Program
  - ▶ From: Special Ed. Coordinator
  
  - ▶ Please keep me informed about my referral for services for my student. He has special needs and I need to know if your program will work!
- 

- ▶ To: Dave's math teacher
- ▶ From: Dave's English teacher
- ▶ What do you think of the new student? Should we refer him for services? That's a lot of paperwork, lets just see what happens!

- ▶ To: Principal Carol
  - ▶ From: Asst. Principal Dave
  - ▶ Shari was suspended today for the third time this year. Her parents may have retained an attorney. Do we have her records from Fall of 2006?
- 

## *Don't overlook other sources of retention periods:*

- ▶ For example, in the employment context:
  - Age Discrimination in Employment Act (ADEA)
  - Title VII
  - Immigration and Nationality Act
  - Fair Labor Standards Act
  - Internal Revenue Code
  - ERISA/COBRA
  - HIPAA
  - OSHA
  - Controlled Substances and Alcohol Use and Testing
  - Americans with Disabilities Act (ADA)
  - Family and Medical Leave Act (FMLA)

# *New York State Archives*

*“Managing E-mail Effectively”*

Archives Technical Information Series #62 (2002)

*“Developing a Policy for Managing E-mail”*

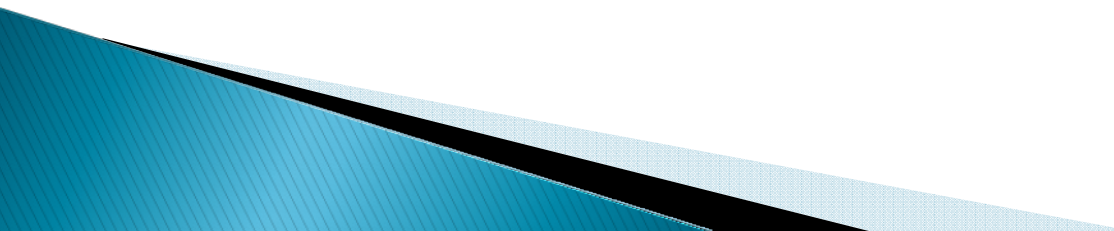
(2008)



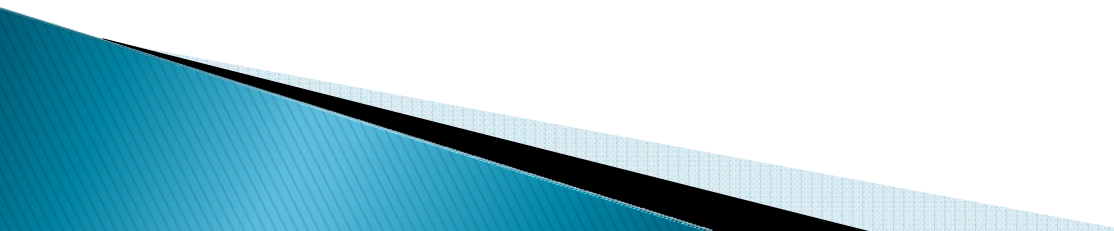
# Ideas for Effective Staff Training

- on the risks of using e-mail as a communication tool

# Make sure employees know the answers:

- ▶ Can my employer search my e-mail?
  - ▶ What happens if a colleague sends me an obscene/offensive e-mail?
  - ▶ Is it wrong to send/receive a personal e-mail at work?
- 

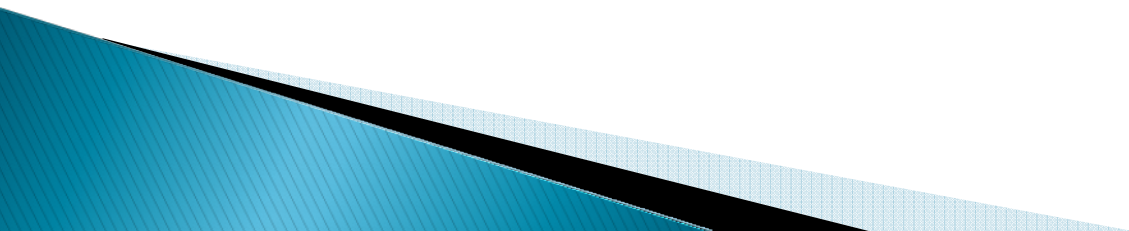
# Make sure employees know the answers:

- ▶ Do I need to write well-written, error free e-mail?
  - ▶ Is an e-mail sent from my personal account to a parent (or other party) confidential?
  - ▶ Am I personally liable if I don't act on a suspicious e-mail that implies a threat to students?
  - ▶ Can my e-mails be "FOILED"?
- 

# Make sure employees know the answers:

- ▶ Whose responsibility is it to keep/archive copies of work related e-mails?
- ▶ Can I delete or destroy e-mails?

# Is an E-Mail Archiving Solution Right for You?



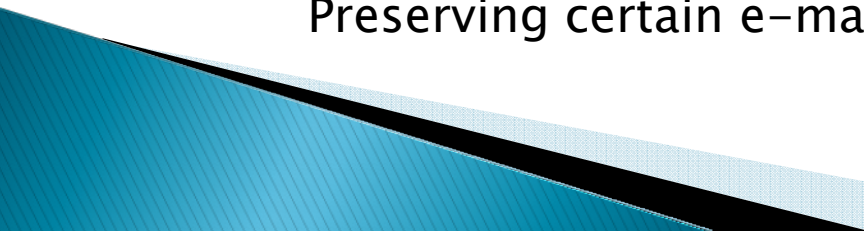
## *An E-mail archiving solution can help you to:*

- Know what e-mail your district has and where it is
- Make employees more aware of appropriate use of e-mail
- Allow you to search through it more efficiently
- Allow you to produce it and/or restore it quickly, if necessary

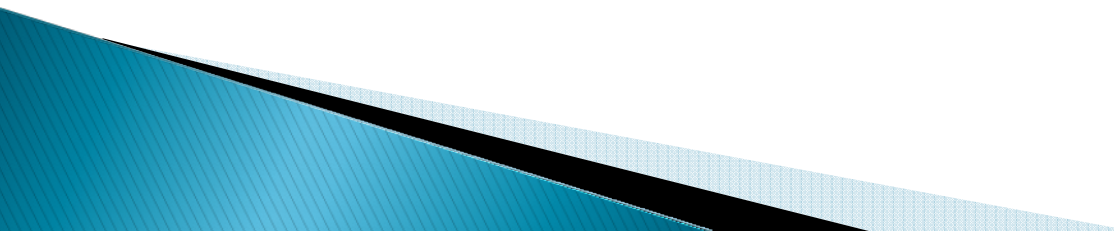
- Lay the groundwork for:

Deleting what you can and should, and retaining what you must

Preserving certain e-mail for “litigation hold” if necessary



# An e-mail archival solution:

- ▶ Allows for easy search by an individual
  - ▶ Relieves overburdened servers – journals, duplicate attachments, and archives can be deleted
  - ▶ Allows for disposition on a schedule individually or full years
  - ▶ Allows for administrative search for investigations
  - ▶ Mailmeter used by Erie 1 BOCES
- 



# MailMeter

## Individual Search and Retrieval

Email ID:

Password:

**WATERFORD**  
TECHNOLOGIES

[Welcome](#) | [Get new password](#) | [Help](#)

Get your password

It's easy to get started. Just enter your email address (for example: myname@company.com) and click on the 'Get new password' button. A temporary password will be sent to your email address in a few minutes.

# “Individual Search and Retrieval” Application

- ✚ End user access to their own e-mail; organization sets parameter for how far it goes back
- ✚ Easy log in using your e-mail address
- ✚ You can only search your own e-mail
- ✚ No deletes
- ✚ Variety of search combinations
- ✚ View, print or e-mail results back to your inbox

# Variety of Search Options

- ▶ Text entry keyword
- ▶ Partial e-mail address
- ▶ Show me: drop down selection

The screenshot shows the MailMeter 'Individual Search and Retrieval' interface. The 'Show me' dropdown menu is open, displaying options: Emails, Attachments, Senders, Recipients, and Dates. A red arrow points to the 'Emails' option. Other visible options include 'Find this text:', 'Email address contains:', 'RECEIVED by', 'SENT by SALLY KING', 'Message', 'Subject', 'Attachment Text', 'Attachment Name', 'Date range: All', 'From:', 'To:', 'limit to: 1,000 messages', and a 'Search' button.

The screenshot shows the MailMeter 'Individual Search and Retrieval' interface. The 'limit to' dropdown menu is open, displaying options: 1,000, 2,000, 3,000, 5,000, 10,000, and All. A red arrow points to the '1,000' option. Other visible options include 'Find this text:', 'Email address contains:', 'Show me: Emails', 'RECEIVED by', 'SENT by SALLY KING', 'Message', 'Subject', 'Attachment Text', 'Attachment Name', 'Date range: All', 'From:', 'To:', and a 'Search' button.

- ▶ Check box selection
- ▶ 'Search'
- ▶ Min/Max results selection

- ▶ Date range allows for customization and manual entry of 'From' and 'To' dates

The screenshot shows the MailMeter 'Individual Search and Retrieval' interface. The 'Date range' dropdown menu is open, displaying options: All, Custom, Last 30 days, and Last 90 days. A red arrow points to the 'All' option. Other visible options include 'Find this text:', 'Email address contains:', 'Show me: Emails', 'RECEIVED by', 'SENT by SALLY KING', 'Message', 'Subject', 'Attachment Text', 'Attachment Name', 'limit to: 1,000 messages', and a 'Search' button.

# MailMeter ISR Search Example

**MailMeter**  
Individual Search and Retrieval

Search

☐ RECEIVED by ☒ SENT by SALLY KING

Find this text:

Email address contains:

Show me:

☐ Message ☐ Attachment Text ☐ Subject ☒ Attachment Name

Date range: Last 30 days

From: 11/12/2008 To: 12/12/2008

limit to: 1,000 messages

Search

(4 items)

To	Messages	Attachments
1 barbara lipiew	2	16
2 kathy reilly	1	15
3 christine kwiecinski	1	15
4 donna albert	1	15

(4 items)

- Sort capability by column heading topics (click the underlined heading)

- Recipients shows how many and who received the selected e-mail

From	Subject	Time Sent	Number of recipients	Size (KB)
1 sally king	EMR files as promised	12/11/2008 11:39:34 AM	4	5 3,221.60

(1 items)

Time Sent	Number of recipients	Size (KB)
12/11/2008 11:39:34 AM	4	60

# Message Retrieval Example

The screenshot displays an email client interface. At the top, the email header shows the sender as 'sally king', recipients as 'kathy reilly; donna albert; christine kwiecinski' and 'barbara lipiew', and the subject as 'EMR files as promised'. The date and time are 'Thursday, December 11, 2008, (11:39:34 AM)'. Below the header, there are several attachments listed, including 'emr - event management registration demo e1b school districts.ppt', 'emr - event management registration demo', 'eric.ppt', 'emr - event mgmt and registration - troaskosky.doc', 'emrenhancements announcement version 2.5.doc', and 'simple event step by step handout january 2008.doc'. The main body of the email starts with 'Hi All' and mentions 'Below are the doc's we spoke about and I promised to forward to you electronically'. It then discusses a 'heavy duty training files' batch and includes a quote from David Brinkley. The email is signed off by 'Sally Ann King, E1B Training Coordinator, Erie 1 BOCES'. At the bottom of the email, there is a 'Search Criteria' line: 'Find all messages to and from "@e1b.org" where attachment names contains "EMR" from 11/12/2008 to 12/12/2008 12:52:50 PM'. A red arrow points from the text '\*Take note of the Search Criteria info line' to this line. Another red arrow points from the text 'Forward this message to my inbox' to a button in the upper right corner of the email body.

From: sally king  
To: kathy reilly; donna albert; christine kwiecinski  
Cc: barbara lipiew  
Bcc:  
Subject: EMR files as promised

Sent: Thursday, December 11, 2008, (11:39:34 AM)  
Received: Thursday, December 11, 2008, (11:39:39 AM)

Attachments: [emr - event management registration demo e1b school districts.ppt](#), [emr - event management registration demo](#), [eric.ppt](#), [emr - event mgmt and registration - troaskosky.doc](#), [emrenhancements announcement version 2.5.doc](#), [simple event step by step handout january 2008.doc](#)

Hi All  
Below are the doc's we spoke about and I promised to forward to you electronically

The next batch will contain the heavy duty training files. Feel free to change, edit or exchange....if you would please share the files with myself and Mindy Beebe (our new ASR) too!

Thank you  
Sally

"A successful man is one who can build a firm foundation with the bricks that others throw at him." ~ David Brinkley

Sally Ann King  
E1B Training Coordinator  
Erie 1 BOCES  
355 Harlem Rd, W. Seneca NY 14224  
Ph: 716-821-7429 Fx: 716-821-7204  
<http://e1b.org>

Search Criteria: Find all messages to and from "@e1b.org" where attachment names contains "EMR" from 11/12/2008 to 12/12/2008 12:52:50 PM

Formatted Body  
Forward this message to my inbox

- ▶ Shows full heading and subject content of e-mail sent.
- ▶ Contains attachments
- ▶ Can be re-sent to inbox or printed using icons (upper left corner of page)

*\*Take note of the Search Criteria info line*

# “Investigate” Application

- ✚ Log-in for authorized users only
- ✚ Searches across organization
- ✚ Variety of search combinations
- ✚ Can tag e-mails for: use in employee disciplinary proceedings, preservation, disclosure, FOIL requests, etc.



# MailMeter Investigate

Email ID:

Password:

Login



Done



Search

Group Builder

Tag Builder

Export Request Builder

Between email addresses:

Colleen Sloan

Address

and:

Carol Barber

Address

Find this text:

Show me:

Emails

Date range:

All

From:

To:

☒ Message☒ Subject☒ Attachment Text☒ Attachment Name

Search

limit to: 1,000 messages

Clear

Tags

Apply selected tags to selected messages

Apply

☐ Filter emails

Messages with no tags

☐ holy cow☐ E1B VoIP☐ Meeting Minutes☐ E1B Ronco☐ E1 B Ronco 2☐ E1 B Ronco 3☐ E1 B Ronco 4☐ E1B Ronco 5



Search

Group Builder

Tag Builder

Export Request Builder

Between email addresses:

Carol Barber

Address

and:

Address

Find this text:

ronco.net

Show me:

Emails

Date range:

All

From:

To:

☒ Message☐ Subject☐ Attachment Text☐ Attachment Name

Search

limit to: 1,000 messages

Clear

Tags

Apply selected tags to selected messages

Apply

☐ Filter emails

Messages with no tags

☐ holy cow☐ E1B VoIP☐ Meeting Minutes☐ E1B Ronco☐ E1 B Ronco 2☐ E1 B Ronco 3☐ E1 B Ronco 4☐ E1B Ronco 5

Between email addresses: 

Address

and:

Find this text: 

Show me:

Emails

☒ Message☐ Subject☐ Attachment Text☐ Attachment Namelimit to:  messagesDate range: From: To: 

Tags

Apply selected tags to selected messages

☐ Filter emails

Messages with no tags

☐ holy cow ☐ E1B VoIP ☐ Meeting Minutes ☐ E1B Ronco ☐ E1 B Ronco 2 ☐ E1 B Ronco 3 ☐ E1 B Ronco 4 ☐ E1B Ronco 5[First](#) [Prev](#) [Next](#) [Last](#)

Page 1 of 2 pages (130 items)

[Export](#)

	<input checked="" type="checkbox"/>	<a href="#">From</a>	<a href="#">Subject</a>	<a href="#">Time Sent</a>			<a href="#">Size (KB)</a>
1	<input type="checkbox"/>	carol barber	<a href="#">Re: CS1000 upgrade update</a>	8/19/2009 7:14:16 AM	8	0	6
2	<input type="checkbox"/>	carol barber	<a href="#">Re: CS1000 upgrade update</a>	8/19/2009 7:14:16 AM	8	0	7
3	<input type="checkbox"/>	"therese teepell"	<a href="#">Re: ACE Implementation Date</a>	8/18/2009 2:16:57 PM	1	0	18
4	<input type="checkbox"/>	carol mcgowan	<a href="#">Re: ACE Implementation Date</a>	8/18/2009 2:01:51 PM	18	0	11
5	<input type="checkbox"/>	carol mcgowan	<a href="#">Re: ACE Implementation Date</a>	8/18/2009 2:01:51 PM	18	0	9
6	<input type="checkbox"/>	"carol vargas"	<a href="#">Re: REVISED: Radware Alteon Contract Renewal Notification</a>	8/14/2009 3:54:17 PM	1	1	81
7	<input type="checkbox"/>	"carol vargas"	<a href="#">Re: REVISED: Radware Alteon Contract Renewal Notification</a>	8/14/2009 3:36:18 PM	1	2	139



Search

Group Builder

Tag Builder

Export Request Builder

Between email addresses:

Address

and:

Address

Find this text: nortel.com

Show me:

Emails

☒ Message☐ Subject☐ Attachment Text☐ Attachment Name

Search

limit to: 1,000 messages

Date range:

All

From:

To:

Clear

Tags

Apply selected tags to selected messages

Apply

☐ Filter emails

Messages with no tags

☐ holy cow☐ E1B VoIP☐ Meeting Minutes☐ E1B Ronco☐ E1 B Ronco 2☐ E1 B Ronco 3☐ E1 B Ronco 4☐ E1B Ronco 5[First](#) [Prev](#) [Next](#) [Last](#)

Page 1 of 10 pages (1000 items)

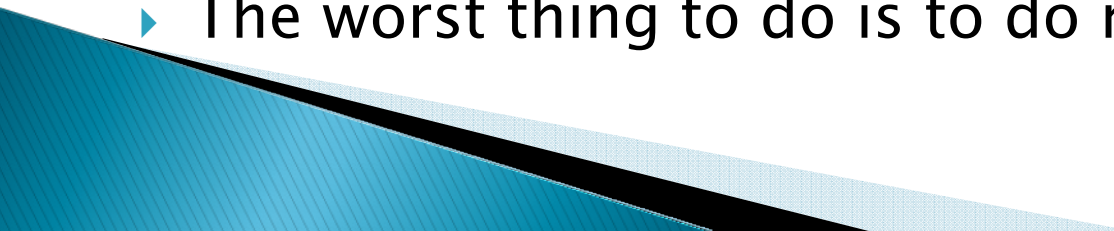
[Export](#)

	<input checked="" type="checkbox"/> From	Subject	Time Sent			Size (KB)
1	<input type="checkbox"/> paul spahn	<a href="#">Fw: USC Opened : : WAN Department : Firewall : Please creat...</a>	3/25/2010 12:00:48 PM	1	0	6
2	<input type="checkbox"/> "thomas wagar"	<a href="#">Cs1000 - making progress</a>	8/19/2009 11:15:08 PM	9	0	8
3	<input type="checkbox"/> "james daiello"	<a href="#">FW: Kyle Lyon - WNYRIC</a>	8/19/2009 10:09:46 PM	1	0	23
4	<input type="checkbox"/> "therese teepell"	<a href="#">RE: Update - Case 090811-95406 - Erie1 BOCES CS1k 6.0 - Thur...</a>	8/19/2009 5:29:33 PM	13	0	13

# New challenges....

- ▶ Guidance around social networking and Web 2.0 publishing tools and participation on Virtual Worlds
  - Call it guidance not policies or regulations
  - Reference your policies don't repeat them
- ▶ IBM now has [Virtual World guidance](#)

# Getting started:

- ▶ Pull together a team – BOCES has a service if you wish guidance in this process
  - ▶ Identify what electronic records you have – what/why/where/who is responsible and when to discard
  - ▶ Establish a Comprehensive Document Retention Policies and Procedures document
  - ▶ Deal with email in some manner while you work through the entire process which will be lengthy
  - ▶ Educate your staff to their responsibilities
  - ▶ Update constantly as new technologies emerge
  - ▶ The worst thing to do is to do nothing....
- 

# Questions...

- Carol Barber – Erie 1 BOCES/WNYRIC
  - [cbarber@e1b.org](mailto:cbarber@e1b.org)
- Deb Arlington for MailMeter
  - [darlingt@e1b.org](mailto:darlingt@e1b.org)
- Your school attorney
- Policy Services – Erie 1 BOCES
  - [jhallgren@e1b.org](mailto:jhallgren@e1b.org)